

## **REMARKS**

In the Office Action mailed April 27, 2007, the Examiner rejected claims 13-20 and 44-69. By way of the foregoing amendments and the markings to show changes, Applicants have amended claims 13, 15-17, 44, 49-50, 57, 62-63 and 66-67 and added new claims 70-71. The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

I. Election/Restriction Requirement

Applicants maintain their traversal of the election/restriction requirement.

II. Rejection under 35 USC 102 or 103

The Office Action rejected claims 13-20 and 44-69 as being anticipated by Ishii et al. or as obvious in view of Ishii et al. combined with Joseph et al. Without acquiescing in these rejections, Applicants have amended independent claims 13 and 44 and assert that none of the references of record disclose the subject matter of those claims.

In particular, claims 13 and 44 have been amended to include the elements of “a third section” and “a protective coating”. Applicants contend that none of the references of record, alone or in combination, or with the knowledge of the skilled artisan, suggest these elements in combination with the other limitations in claim 13 and 44.

Applicants also assert that none of the references of record, alone or in combination, or with the knowledge of the skilled artisan, suggest the elements of several of the dependent claims in combination with the elements of claims 13 and 44. The elements of those dependent claims include at least the following:

- i. the plurality of first strips being substantially uniformly spaced apart from each other and each first strip of the plurality of first strips having substantially the same shape;
- ii. the carrier is formed of a material having a dielectric constant greater than 1;

- iii. the carrier is formed of a material having an elongation at failure greater than 50%'
- iv. the carrier of the heater and the first conductive medium cooperatively defining at least one contour, which bends about a contour of the foam cushion;
- v. wherein the carrier of the heater has an hour-glass shape;
- vi. the positive section, the negative section and the third sections for regions in conjunction with the second conductive material and those regions are selectively heated;
- vii. the second extensions are interdigitated with the first extensions and the third extensions are interdigitated with the first extensions;
- viii. the coating is cured;

### III. New Claims

Applicants also assert that none of the references of record, alone or in combination, or with the knowledge of the skilled artisan, suggest the elements of new claims 70 and 71 in combination with the elements of claim 44.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants reserve the right to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in

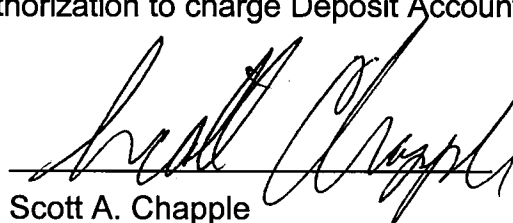
language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

### CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

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